PART IV

Section 2-B

MYSORE ACTS AND ORDINANCES.

NOTIFICATION.

(LAW DEPARTMENT).

No. LAW 32 LGN 63, dated Bangalore, 30th July 1965.

Ordered that the Mysore Labour Welfare Fund Act, 1965, which received the assent of the President on the 18th day of July 1965, be published as Mysore Act No. 15 of 1965 in the *Mysore Gazette* for general information.

MYSORE ACT No. 15 OF 1965.

(First published in the Mysore Gozette *on the Fifth day of August 1965).*

THE MYSORE LABOUR WELFARE FUND ACT, 1965.

(Received the assent of the President on the Eighteenth day of July 1965).

An Act to provide for the constitution of a Fund for financing and conducting activities to promote welfare of labour in the State of Mysore.

WHEREAS it is expedient to constitute a Fund for financing and conducting activities to promote welfare of labour in the State of Mysore;

BE it enacted by the Mysore State Legislature in the Sixteenth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Mysore Labour Welfare Fund Act, 1965.

(2) It extends to the whole of the State of Mysore.

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint and different dates may be appointed for different areas of the State.

2. Definitions.—In this Act, unless the context otherwise requires—

(1) "Board" means the Mysore Labour Welfare Board constituted under section 4;

(2) "employee" means any person who is employed for wages to do any work skilled or unskilled, manual or clerical, in an establishment;

(3) "employer" means any person who employs either directly or through another person either on behalf

of himself or any other person, one or more employees in an establishment and includes—

(i) in a factory, any person named under section 7 (1)(f) of the Factories Act, 1948, as the manager;

(ii) in any establishment, any person responsible to the owner for the supervision and control of the employees or for the payment of wages;

(4) "establishment" means—

(i) a factory;

(ii) motor omnibus service;

(iii) any establishment including a society registered or deemed to be registered under the Mysore Societies Registration Act, 1960, and a charitable or other trust, whether registered under any law applicable to such charitable or other trust or not, which carries on any business or trade or any work in connection with or ancillary thereto and which employs or on any working day during the preceding twelve months employed more than fifty persons,

but does not include an establishment (not being a factory) of the Central or any State Government; and

(iv) any plantation or workshops;

(5) "factory" means a factory as defined in section 2 (m) of the Factories Act, 1948;

(6) "Fund" means the Mysore Labour Welfare Fund constituted under section 3;

(7) "independent member" means a member of the Board who is not connected with the management of any establishment or who is not an employee, and includes an officer of Government nominated as a member;

(8) "Inspector" means an Inspector appointed under section 13;

(9) "prescribed" means prescribed by rules made under this Act;

(10) "unpaid accumulations" means all payments due to the employees but not made to them within a period of three years from the date on which they became due whether before or after the commencement of this Act including the wages, and gratuity legally payable but not including the amount of contribution, if any, paid by an employer to a provident fund establishment under the Employees' Provident Funds Act, 1952;

(11) "wages" means all remuneration capable of being expressed in terms of money which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, but does not include,—

(*a*) the value of—

(i) any house accommodation, supply of light, water, medical attendance; or

(ii) any other amenity or any service excluded by general or special order of the State Government;

(*b*) any contribution paid by the employer to any pension fund or provident fund or under any scheme of social insurance;

(*c*) any travelling allowance or the value of any travelling concession;

(*d*) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or

(*e*) any gratuity payable on discharge.

(12) "Welfare Commissioner" means the Welfare Commissioner appointed under section 12.

3. Welfare Fund—(1) The State Government shall constitute a Fund called the Mysore Labour Welfare Fund, and notwithstanding anything contained in any other law for the time being in force or in any contract or instrument, all unpaid accumulations shall be paid to the Board, which shall keep a separate account therefor until claims thereto

have been decided in the manner provided in section 7, and the other sums specified in sub-section (2) shall be paid into the Fund.

(2) The Fund shall consist of—

(*a*) all fines realised from the employees;

(*b*) all unpaid accumulations transferred to the Fund under section 7;

(*c*) any voluntary donations;

(*d*) any fund transferred under sub-section (5) of section 8; and

(*e*) any sum borrowed under section 9.

(3) The sums specified in sub-section (2) shall be collected by such agencies and in such manner and the accounts of the Fund shall be maintained and audited in such manner as may be prescribed.

4. Board—(1) The State Government shall, by notification in the official Gazette, constitute the Board for the whole of the State of Mysore for the purpose of administering the Fund, and to carry on such other functions assigned to the Board by or under this Act.

(2) The Board shall consist of the following members nominated by the State Government, namely :—

(*a*) representatives of employers and employees;

(*b*) independent members, representing women; and

(*c*) other independent members.

The number of members of each category shall be such as may be prescribed :

Provided that both employers and employees shall have equal representation on the Board.

(3) The members of the Board shall elect one of its independent members as the Chairman of the Board.

(4) Save as otherwise expressly provided by this Act, the term of office of the members of the Board shall be three years commencing on the date on which their names are notified in the official Gazette.

(5) The allowances, if any, payable to the members of the Board and the conditions of appointment of the representatives of the employers and employees shall be such as may be prescribed.

(6) The Board shall be a body corporate by the name of the Mysore Labour Welfare Board, having perpetual succession and a common seal, with power subject to the provision of this Act, or the rules made thereunder to acquire, hold and dispose of property, both moveable and immoveable, and to contract, and may, by the said name sue and be sued.

5. **Disqualifications and removal.**—(1) No person shall be chosen as or continue to be a member of the Board who—

(*a*) is a salaried official of the Board ; or

(*b*) is or at any time has been adjudged insolvent or has suspended payment of his debts or has compounded with his creditors ; or

(*c*) is found to be a lunatic or becomes of unsound mind ; or

(*d*) is or has been convicted of any offence involving moral turpitude.

(2) The State Government may remove from office any member who—

(*a*) is or has become subject to any of the disqualifications mentioned in sub-section (1) ; or

(*b*) is absent without leave of the Board for more than three consecutive meetings of the Board.

6. **Resignation of office by member and filling up of casual vacancies.**—(1) A member may resign his office by giving notice thereof in writing to the State Government, and on such resignation being accepted, shall be deemed to have vacated his office.

(2) A casual vacancy in the office of a member shall be filled up, as soon as conveniently may be, by the authority concerned and a member so nominated shall hold

office for the unexpired portion of the term of the office of his predecessor.

(3) No act or proceedings of the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Board.

7. Unpaid accumulations and claims thereto.—(1) All unpaid accumulation shall be deemed to be abandoned property.

(2) Any unpaid accumulations paid to the Board in accordance with the provisions of section 3 shall, on such payment, discharge an employer of the liability to made payment to an employee in respect thereof, but to the extent only of the amount paid to the Board; and the liability to make payment to the employee to the extent aforesaid shall, subject to the succeeding provisions of this section, be deemed to be transferred to the Board.

(3) As soon as possible after the payment of any unpaid accumulations is made to the Board, the Board shall, by notice (containing such particulars as may be prescribed)—

(*a*) exhibited on the notice-board of the factory or establishment in which the unpaid accumulation was earned, and

(*b*) published in the official Gazette, and

(*c*) also published in any two newspapers circulating in the area in which the factory or establishment in which the unpaid accumulation was earned is situate or in such other manner as may be prescribed, regard being had to the amount of the claim,

invite claims by employees for any payment due to them. The notice shall be inserted in the manner aforesaid in June and December of every year, for a period of three years from the date of the payment of the unpaid accumulation to the Board.

(4) If any question arises whether the notice referred to in sub-section (3) was given as required by that

sub-section, a certificate of the Board that it was so given, shall be conclusive.

(5) If a claim is received whether in answer to the notices or otherwise, within a period of four years from the date of first publication of the notice in respect of such claim, the Board shall transfer such claim to the Authority appointed under section 15 of the Payment of Wages Act, 1936, having jurisdiction in the area in which the factory or establishment is situated, and the Authority shall proceed to adjudicate upon, and decide, such claim. In hearing such claim, the Authority shall have the powers conferred by, and follow the procedure (in so far as it is applicable) followed in giving effect to the provisions of that Act.

(6) If the Authority aforesaid is satisfied that any such claim is valid so that the right to receive payment is established it shall decide that the unpaid accumulation in relation to which the claim is made shall cease to be deemed to be abandoned property, and shall order the Board to pay the whole of the dues claimed or such part thereof as the Authority decides are properly due, to the employes; and the Board shall make payment accordingly:

Provided that the Board shall not be liable to pay any sum in excess of that paid under sub-section (1) of section 3 to the Board as unpaid accumulations in respect of the claim.

(7) If a claim for payment is refused, the employee shall have a right of appeal to the District Court having jurisdiction over the area and the Board shall comply with any order made in appeal. An appeal shall lie within sixty days of the decision of the Authority.

(8) The decision of the Authority, subject to appeal aforesaid and the decision in appeal of the District Court, shall be final as to the right to receive payment, the liability of the Board to pay and also as to the amount, if any.

(9) If no claim is made within the time specified in sub-section (5), or a claim has been duly refused as aforesaid

by the Authority, or by the Court on appeal, then the unpaid accumulations in respect of such claim, shall accrue to, and vest in, the State as *bona vacantia*, and shall thereafter, without further assurance be deemed to be transferred to, and form part of, the Fund.

8. **Vesting and application of Fund.**—(1) The Fund shall vest in and be held and applied by the Board as Trustees subject to the provisions and for the purpose of this Act. The moneys therein shall be utilised by the Board to defray the cost of carrying out measures which may be specified by the State Government from time to time to promote the welfare of laboure and of their dependents.

(2) Without prejudice to the generality of sub-section (1) the moneys in the Fund may be utilised by the Board to defray expenditure on the following :—

(*a*) community and social education centres including reading rooms and libraries ;

(*b*) community necessities ;

(*c*) games and sports ;

(*d*) excursions, tours and holiday homes ;

(*e*) entertainments and other forms of recreation ;

(*f*) home industries and subsidiary occupations for women and unemployed persons ;

(*g*) corporate activities of a social nature ;

(*h*) cost of administering the Act including the salaries and allowances of the staff appointed for the purposes of the Act ;

(*i*) such other objects as would in the opinion of the State Government improve the standard of the living and ameliorate the social conditions of labour :

Provided that the Fund shall not be utilised in financing any measure which the employer is required under any law for the time being in force to carry out :

Provided further that unpaid accumulations and fines shall be paid to the Board and be expended by it under this

Act notwithstanding anything contained in the Payment of Wages Act, 1936, or any other law for the time being in force.

(3) The Board may, with the approval of the State Government, make a grant out of the Fund to any employer, any local authority or any other body in aid of any activity for the welfare of labour approved by the State Government.

(4) If any question arises whether any particular expenditure is or is not debitable to the Fund, the matter shall be referred to the State Government and the decision given by the State Government shall be final.

(5) It shall be lawful for the Board to continue any activity financed from the labour welfare fund of any establishment, if the said fund is duly transferred to the Board.

9. Power of Board to borrow.—The Board may from time to time with the previous sanction of the State Government and subject to the provisions of this Act and to such conditions as may be specified in this behalf borrow any sum required for the purposes of this Act.

10. Investment of Fund.—Where the Fund or any portion thereof cannot be applied at an early date for fulfilling the objects of the Act, the Board shall invest the same in any of the securities specified in clauses (*a*) to (*d*) and (*f*) of section 20 of the Indian Trusts Act, 1882.

11. Direction by State Government to Board.—The State Government may give the Board such directions as in its opinion are necessary or expedient in connection with the expenditure from the Fund or for carrying out the other purposes of the Act. It shall be the duty of the Board to comply with such directions.

12. Appointments and powers of Welfare Commissioner.—(1) The Welfare Commissioner shall be appointed by the Board with the previous approval of the State Government

(2) The Welfare Commissioner shall be the principal executive officer of the Board.

(3) It shall be the duty of the Welfare Commissioner to ensure that the provisions of this Act and rules made thereunder are duly carried out and for this purpose he shall have the power to issue such orders not inconsistent with the provisions of this Act and rules made thereunder as he deems fit including any order implementing the decisions taken by the Board under the Act or rules made thereunder.

13. Appointment of Inspectors.—(1) The State Government may appoint Inspectors to inspect the records in connection with the sums payable into the Fund.

(2) Any Inspector may—

(*a*) with such assistance, as he thinks fit, enter at any reasonable time any premises for carrying out the purposes of this Act;

(*b*) exercise such other powers as may be prescribed.

14. Appointment of clerical and other staff by Board.—The Board shall have power to appoint the necessary clerical and executive staff to carry out and supervise the activities financed from the Fund:

Provided that the expenses of the staff thus appointed and other administrative expenses shall not exceed a prescribed percentage of the annual income of the Fund.

15. Power of State Government to remove any person on staff of the Board.—The State Government shall have the power to remove any person whom it may deem unsuitable from the service of the Board.

16. Power of State Government or authorised officer to call for records, etc.—The State Government or any officer authorised by the State Government may call for the records of the Board, inspect the same and may supervise the working of the Board.

17. Mode of recovery of sums payable into Fund, etc.—Any sum payable into the Fund under this Act shall, without prejudice to any other mode of recovery, be recoverable on behalf of the Board as arrears of land revenue.

18. Supersession of Board.—(1) If the State Government is satisfied that the Board has made default in performing any duties imposed on it by or under this Act or has abused its power, the State Government may by notification in the official Gazette supersede and re-constitute the Board in the prescribed manner:

Provided that before issuing the notification under this sub-section, the State Government shall give a reasonable opportunity to the Board to show cause why it should not be superseded and shall consider the explanations and objection, if any, of the Board.

(2) After the supersession of the Board, and until it is reconstituted the powers, duties and functions of the Board under this Act shall be exercised or performed by such officer or officers, as the State Government may appoint for this purpose.

19. Rules.—(1) The State Government may, by notification in the official Gazette and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to generality of the foregoing power, such rules may be made for all or any of the following matters, namely :—

(*a*) the agency for and the manner of collection of sums specified in sub-section (3) of section 3, and the period within which the same shall be paid to the credit of the Fund ;

(*b*) the manner in which the accounts of the Fund shall be maintained and audited under sub-section (3) of section 3 ;

(*c*) the procedure for making grants from the Fund under section 8 ;

(*d*) the procedure for defraying the expenditure incurred in administering the Fund ;

(*e*) the number of representatives of employers and employees, independent members and representatives of women on the Board, and the allowances, if any, payable to them, under section 4 ;

(*f*) the manner in which the Board shall conduct its business ;

(*g*) the duties and powers of the Inspectors and the conditions of service of the Welfare Commissioner and Inspectors and other staff appointed under this Act ;

(*h*) the delegation of the powers and functions of the Board to the Welfare Commissioner and the conditions and the limitations subject to which the powers may be exercised or functions discharged ;

(*i*) the percentage of the annual income of the Fund beyond which the Board may not spend on the staff and on other administrative measures ;

(*j*) the registers and records to be maintained under this Act ;

(*k*) the publication of the report of the activities financed from the Fund together with a statement of receipts and expenditure of the Fund and statement of accounts ;

(*l*) the condition subject to which the Board may dispose of immoveable and moveable property or enter into contract ;

(*m*) any other matter which may be prescribed under this Act.

(3) A rule under this Act may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a statement laid before both Houses of the State Legislature. Subject to any

modification made under section 23, every rule made under this Act shall have effect as if enacted in this Act.

20. Members of Board, Welfare Commissioner, Inspectors and all officers and servants of Board to be public servants.—The members of the Board, the Welfare Commissioner, Inspectors and all officers and servants of the Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

21. Protection to persons acting in good faith.—No suit, prosecution or other legal proceeding shall lie against the Board or any person for anything which is in good faith done or intended to be done under this Act.

22. Exemption.—The State Government may, by notification in the official Gazette, exempt any class of establishments from all or any of the provisions of this Act subject to such conditions as may be specified in the notification.

23. Rules and notifications to be laid before State Legislature.—Every rule made under this Act, and every notification issued under section 22 shall be laid, as soon as may be after it is made, or issued before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the sessions immediately following, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any modification or annulment shall be without prejudice to the validity of anything previously done under such rule or notification.

24. Transfer of Government Labour Welfare Centres to the Board.—(1) The control and management of State

Government Labour Welfare Centres shall as from such date as the State Government may by notification in the official Gazette appoint, be transferred to the Board, and thereupon all the properties and assets, and liabilities and obligations, of the State Government in relation to such centres shall stand transferred to, vest in, or devolve upon, the Board.

(2) Every employee of the State Government who was employed by the State Government wholly or mainly in or in connection with any of the said Centres immediately before the date appointed under sub-section (1) shall, as from the said date, become an employee of the Board, and shall hold his office under the Board on the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held the same if the transfer of the said Centre had not been effected and shall continue to do so unless and until his employment under the Board is terminated or until his remuneration, terms and conditions of service are duly altered by the Board:

Provided that the remuneration, terms or conditions of service of any such employee shall not be varied to his disadvantage except with the previous approval of the State Government.

25. Amendment of section 8 of Central Act 4 of 1936.— In section 8 of the Payment of Wages Act, 1936 (Central Act 4 of 1936), to sub-section (8) the following shall be added before the Explanation, namely :—

"but in the case of any factory or establishment to which the Mysore Labour Welfare Fund Act, 1965, applies all such realisations shall be paid into the Fund constituted under the said Act".

26. Repeal and savings.—(1) From the date of coming into force of this Act in the Bombay Area,

(*a*) the Bombay Labour Welfare Fund Act, 1953 (Bombay Act 40 of 1953), as in force in the Bombay Area shall stand repealed;

(*b*) all properties, fund and dues which are vested in or realisable by the new Board as defined in the Bombay Labour Welfare Board (Reconstitution) Order, 1959, made by the Central Government under the Inter-State Corporations Act, 1957 (Central Act 38 of 1957), shall vest in, and be realisable by, the Board constituted under this Act ;

(*c*) all liabilities which were enforceable against the said new Board shall be enforceable against the Board constituted under this Act ; and

(*d*) all employees serving in connection with the affairs of the said new Board shall become employees of the Board constituted under this Act.

(2) Subject to the provisions of sub-section (1), the provisions of section 6 of the Mysore General Clauses Act, 1899 (Mysore Act 3 of 1899), shall be applicable in respect of the repeal of the Bombay Labour Welfare Fund Act, 1953 and sections 8 and 24 of the said Mysore General Clauses Act, 1899, shall be applicable as if the said Bombay Labour Welfare Fund Act, 1953, had been repealed and re-enacted by this Act.

By Order and in the name of the Governor of Mysore,

R. SANJEEVALU,
Secretary to Government,
Law Department.

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